

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/007687

International filing date (day/month/year)
12.07.2004

Priority date (day/month/year)
11.07.2003

International Patent Classification (IPC) or both national classification and IPC
B29C45/14

Applicant
HEKUMA GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/007687

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. II Priority

1. ☒ The following document has not been furnished:
- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-8

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/007687

Box No. V Reasoned statement under Rule 43*b*/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4,5,7
	No: Claims	1-3,6,8
Inventive step (IS)	Yes: Claims	5
	No: Claims	1-4,6-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item IV

- 1 This Authority considers that there are 2 inventions covered by the claims indicated as follows:
 - I: Claims 1-8
 - II: Claim 9
- 2 The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:
 - 2.1 The prior art has been identified as document WO98/47685 and discloses:
Handling system for an injection moulding machine wherein an application, for example a label (1b, 408), is inserted in the cavity of an injection moulding tool (301 in Fig. 34) before injection moulding, when for example a beaker having the label on the outer circumference is fabricated by injection moulding (see Fig. 5), wherein preform means (Fig. 24) for the label is provided outside the injection molding tool, has a feeder means (ref. signs 405 to 407) for the label and a preform (ref. sign 403) into which the label is introduced by the feeder means, and is thus preformed to the shape in which it is to be inserted in the injection mould (301 in Fig. 34), and transfer means (Fig. 33, ref. sign 205) removes the preformed label (408) from the preform (403) and delivers it to the injection mould (301), wherein the preform (403) is decouplable from the feeder means (405 to 407) and movable into a position different from it (indicated by arrows C and D).
 - 2.2 It follows that the technical features regarding the decouplable preforming means of claims 1 and 8 were meant to make a contribution over the prior art and can be considered as potential special technical features within the meaning of Rule 13.2 PCT.
The problem solved by this potential special technical feature can therefore be construed as shortening the time needed for inserting the label.
 - 2.3 Moreover, the technical features regarding the insertable support means for holding the label until it is taken over by the holding means provided in the preforming means of claim 9 make a contribution over the prior art and can be

considered as special technical features within the meaning of Rule 13.2 PCT. The problem solved by these special technical features can therefore be construed as ensuring a correct positioning of the label in the preforming means.

- 3 In conclusion, the groups of claims do not have any common special technical features. Since they solve different problems, the special technical features cannot be considered as being corresponding. Therefore, the inventions mentioned under paragraph 1 are not linked by a single general inventive concept. The application, hence, does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

Re Item V

- 1 Reference is made to the following document:
D1: WO98/47685
- 2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 1 and 8 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document):

Handling system for an injection moulding machine wherein an application, for example a label (1b, 408), is inserted in the cavity of an injection moulding tool (301 in Fig. 34) before injection moulding, when for example a beaker having the label on the outer circumference is fabricated by injection moulding (see Fig. 5), wherein preform means (Fig. 24) for the label is provided outside the injection molding tool, has a feeder means (ref. signs 405 to 407) for the label and a preform (ref. sign 403) into which the label is introduced by the feeder means, and is thus preformed to the shape in which it is to be inserted in the injection mould (301 in Fig. 34), and transfer means (Fig. 33, ref. sign 205) removes the preformed label (408) from the preform (403) and delivers it to the injection mould (301); wherein the preform (403) is decouplable from the feeder means (405 to 407) and movable into a position different from it (indicated by arrows C and D).

Consequently, the subject-matter of claim 1 is not novel. The same reasoning applies also to the subject-matter of method claim 8.

- 3 D1 also discloses a stack gripper for inserting a preform into the mould and the feature that the preforming means are decouplably mounted on a transfer arm (Fig. 24). The subject-matter of claims 2, 3 and 6 is therefore not novel (Art. 33(2) PCT). The subject-matter of claims 4 and 7 seems to reflect standard practice in automated insert moulding, which is not considered to be inventive (Art. 33(3) PCT).
- 4 However, the subject-matter of claim 5 is neither disclosed nor suggested in the prior art at hand and therefore considered to be novel and inventive (Art. 33(2) and (3) PCT).
- 5 The subject-matter of the claims seems to be industrially applicable (Art. 33(4) PCT)

Re Item VII:

- 1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.
- 2 Independent claims 1 and 8 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

Re Item VIII:

- 1 The term "preform" is normally used for a preformed article. In the current application it denominated the preforming mould, which renders the subject-matter of the claims unclear (Art. 6 PCT).